



# Hon. John Choate

## Administrative Law Judge, Office of Medicare Hearings and Appeals, U.S. Department of Health & Human Services

by Zina Daimi Ashourian



*Zina Daimi Ashourian is a senior attorney adviser at the U.S. Department of Health & Human Services, Office of Medicare Hearings and Appeals, Arlington, Va. © 2016 Zina Daimi Ashourian. All rights reserved.*

**J**udge John Choate served as a federal administrative law judge with the Office of Medicare Hearings and Appeals (OMHA) in the Arlington, Va., field office of the U.S. Department of Health & Human Service (HHS) from 2005 until his retirement in May 2016. Judge Choate is a proud veteran, an esteemed colleague, a mathematician, and a respected mentor. He is always ready and willing to provide young attorneys with advice about the law, real estate, tax, and life in general. Judge Choate has influenced the careers and lives of many through a distinguished and diverse legal career. He will be sorely missed at OMHA.

### A Strong Background

**Education.** A native of Oklahoma City, Judge Choate graduated from the University of Oklahoma with majors in mathematics, political science, and English. He received his Juris Doctor from Yale Law School, where he was nominated to the Rhodes Scholarship State Selection Committee.

**Forty-One Years of Military Service.** Judge Choate is a strong advocate for serving in the U.S. military thanks to his family's long tradition of military service. Relatives fought in every major American conflict, from the French and Indian War of 1754-1763, through the American Revolution, the War of 1812, the Civil War, and both World Wars. Eager to follow that tradition, he was commissioned a second lieutenant in the U.S. Air Force at the age of 20—before the 26th Amendment lowered the voting age to 18—making him the youngest commissioned officer since the Cold War. He served with distinction for 41 years and received many awards, including the Meritorious Service Medal with two oak-leaf clusters, Air Force Training Ribbon, Air Force Outstanding Unit Award, Air Force Organizational Excellence Award, National Defense Service Medal with device, Air Force Longevity Service Award with five devices, and Armed Forces Reserve Medal with silver hourglass and M device.



### A Varied and Distinguished Legal Career

Before taking the bench in 2005, Judge Choate had a varied and distinguished legal career. His broad legal practice included securities, litigation and appeals, mergers and acquisitions, tax, real estate, and patent and trademark issues.

**Securities.** He was certified by the United States District Court as an expert on valuation of public company and listed securities trading. He successfully defended a client accused of a multimillion dollar securities fraud. He prevented erroneous issuance of warrants and stock as requested by stockholder claimant's counsel, thereby avoiding violation of state and federal securities laws. He reduced shareholder approval time from months to one day by using state law provisions to permit informal resolutions, thereby improving convenience, saving money, and providing valuable intangible benefits. In addition, he completed within budget and on schedule a project that obtained exemptions from security laws in 35 states for a first-ever auto-body repair shop cooperative.

**Litigation.** Judge Choate successfully litigated various bankruptcy cases, commercial credit litigation, and

administrative cases while he was an attorney for the U.S. Department of Transportation (DOT). In fact, he won 80 percent of his administrative cases and all of his appeals as a DOT attorney. Furthermore, he has vast knowledge and experience with litigation on negotiable instruments, recovered funds, interest on checks paid on forged endorsement, affidavit of forgery, altered instruments, answerable obligation, assignments, bankruptcy, check drafts, collecting bank, consumer credit, creditor, debtor, deposit, depositor, drawee, drawer, endorsement, exemption, Federal Reserve Bank, foreclosure, joint payee, liability, liquidation, paid in succession, payer bank, preference, guaranteed prior endorsements, receiver, Regulation J of Board of Governors Federal Reserve System, signature, successor in interest, taxes, title, trustee, U.C.C. §§ 3 and 4, U.C.C. tender of defense, ultra vires, and warranty.

**Real Estate.** Judge Choate always has the best real estate advice for his attorneys. It is very valuable advice for young attorneys as far as investing in their future and earning equity in their property ownership. His knowledge of real estate is profound, and he was certified by the U.S. district court as an expert on valuation of public real estate development companies. He has a real estate broker license, and his real estate activities have included site locations, mortgages, net leases, market surveys, listings, zoning review, environmental reviews, repositioning, residential, modular, construction, appraisals, master leases, flex space, office space, retail space, setups, and sublease. Furthermore, he initiated, lobbied, persevered, and persuaded Congress and the president to revise an 1887 federal real estate law.

**Patents.** In addition to real estate, Judge Choate has prosecuted and been granted many patents from the U.S. Patent and Trademark Office. These include: Patent #5,836,705 for a computer peripheral input technology device (Nov. 17, 1998), Patent #5,718,590 (February 1998—single use), Patent #5,626,429 (May 1997—re-map), Patent #5,498,088 (March 1996—software), and Patent #5,352,050 (October 1994—keyboard device).

**Taxation.** Choate was a past chair of the taxation section of the Association of American Law Schools. He has extensive mergers-and-acquisitions experience that includes accomplishing many million-dollar acquisition and mergers. Moreover, his tax experience includes defending clients against Internal Revenue Service tax audits, successfully defending against a multimillion dollar United Kingdom tax hike on the foreign branch of a U.S. commercial financial institution, and providing advice on international tax issues.

His other professional affiliations include: Federal Bar Association chapter president/national delegate, Federal Administrative Law Judges Conference executive committee, and Air Force Association Steele Chapter vice president for community partners.

### **An Administrative Law Judge**

Judge Choate served as an administrative law judge with OMHA from 2005 until his retirement in 2016. Judge

Choate applied statutes, regulations, and rulings issued in accordance with the Administrative Procedures Act ensuring fair and impartial rights to Medicare appellants and effective adjudication of Medicare appeals. His job was to interpret and implement the policies of the HHS as required by the equities of each particular case. The job is difficult and requires discretion and tact. As he describes it, “[This] position is functionally comparable to that of a judge of a court of record, with unusual latitude for the exercise of discretion and independent judgment in the conduct of the proceedings and the determination of all issues of law and fact.”

Judge Choate's broad experience and education were instrumental in his approach to judging. Coming from a mathematical background, Judge Choate uses the logical analysis acquired from mathematics and applies it to the law. The judge believes mathematics and the law are related due to the logic that stems from both disciplines. Mathematicians have the ability to analyze problems and principles just as lawyers have the ability to dissect dictums and rules from cases. Judge Choate's renowned career, creativity, and innovation gives young attorneys the drive and motivation to be like him.

### **A Cheerful Retirement**

**Family Man.** Judge Choate is happily married to his wife, Gretchen. They have four grown children and 14 grandchildren, and his favorite hobby is to spend time with family. His idols are his parents. He has a strong interest in history, particularly American, Scottish, English, and Polish history. His favorite pizza is DiGiorno and, when asked how he got into his public service career, his response is “God’s will.” His philosophy on life is to “be cheerful,” and to do that you should “pray to be cheerful.”

**Retirement.** Judge Choate retired in May 2016 and will be traveling to Tokyo on a mission for his church. He will be missed, but his valuable advice will be cherished and passed on to new OMHA attorneys. Everyone at OMHA is thankful to the profound contributions he made. Thank you Judge Choate. We have so very much enjoyed working with you. ☺

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